

CS-02-072



JFW

June 14, 2005

To: Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Attn: Art Unit 2818 - Andy Huynh  
From: George O. Saile, Reg. No. 19,572  
28 Davis Avenue  
Poughkeepsie, N. Y., 12603

Subject: | Serial No.: 10/785,520 02/24/04 |

Liu Huang et al.

OXYGEN DOPED SiC FOR Cu BARRIER AND  
ETCH STOP LAYER IN DUAL DAMASCENE  
FABRICATION

| Art Group: 2818 Andy Huynh |

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Restriction or Election Requirement in the Office Action dated 05/25/05. In that Office Action, restriction was required to one of two stated

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on June 16, 2005.

Stephen B. Ackerman, Reg.# 37761

Signature/Date

 6/16/05

Inventions under 35 U.S.C. 121. The Inventions stated are Group I - Claims 1-24 to a process, classified in Class 438, subclass 105 and Group II - Claims 25-37 to a device, classified in Class 257, subclass 077.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group I - Claims 1-24 drawn to a process classified in Class 438, subclass 105. This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (1) that the process as claimed can be used to make other and materially different products or (2) that the product as claimed can be made by another and materially different process (MPEP 806.05(f)). However, upon reading the product Claims against the process Claims one can readily see that the product Claims are directed to "a dual damascene structure" and the process Claims are directed to "a damascene method", it is necessary to obtain claims in both the product and method claim language. The method Claims necessarily use the product and vice versa. The field of search must necessarily cover both the method class/subclass 438/105 and products class 257/077 in addition to other related Classes and

subclasses to provide a complete and adequate search. The fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive. The Examiner's suggestion that "In the instant case, unpatentability of the group II invention would not necessarily imply unpatentability of the group I invention, since the device of the group II invention could be made by the processes materially different from those of the group I invention. For example, in claim 7, the oxygen doped SiC layer may be deposited by a LPCVD process instead", is very speculative and really has nothing to do with the Claims as presented in this Patent Application. Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement and the Allowance of the present Patent Application is requested.

Sincerely,



Stephen B. Ackerman, Reg.# 37761